

STATEMENT OF THE
NATIONAL BORDER PATROL COUNCIL
OF THE
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
AFL-CIO

BEFORE THE
SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY AND CLAIMS
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

OVERSIGHT HEARING ON THE IMMIGRATION ENFORCEMENT
RESOURCES AUTHORIZED IN THE INTELLIGENCE REFORM
AND TERRORISM PREVENTION ACT OF 2004

PRESENTED BY

T.J. BONNER
NATIONAL PRESIDENT

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On behalf of the 10,000 front-line Border Patrol employees that it represents, the National Border Patrol Council thanks the Subcommittee for the opportunity to present our views and concerns regarding the Administration's budget request for immigration enforcement resources for the next fiscal year.

The nightmarish events that unfolded on the morning of September 11, 2001 punctuated the vulnerabilities of our Nation's immigration system. All nineteen of the terrorists who carried out those horrific attacks were foreign nationals who had violated our immigration laws, yet were allowed to remain in the United States. Some steps have been taken to ensure that it is now more difficult for terrorists to enter our country through legal means. Unfortunately, the same cannot be said about their ability to cross our borders illegally. The ease with which *anyone* can sneak into our country is alarming. Although the overwhelming majority of those who do so are merely seeking economic opportunities, thousands of criminals also succeed in entering the United States illegally every year, and there is mounting evidence that terrorists are also increasingly exploiting this weakness in our homeland security network. The 9/11 Commission recognized these shortcomings and made several recommendations designed to minimize the possibility of future terrorist attacks that take advantage of our open borders.¹ Sadly, this Administration has not fully implemented these recommendations.

The reason that so many people can easily cross our borders illegally is quite simple: The Border Patrol is overwhelmed by the sheer volume of traffic. Last fiscal year, it apprehended nearly 1.2 million people trying to illegally enter the country. Front-line agents estimate that two to three times that number managed to slip by them. The Border Patrol is responsible for patrolling the 2,000 miles of land border between the United States and Mexico, the 4,000 miles of land border between the continental United States and Canada, and thousands of additional miles of coastline bordering the continental United States as well as Puerto Rico. Fewer than 11,000 agents are expected to accomplish this daunting task. At the start of the previous fiscal year, there were approximately 10,650 Border Patrol agents. By mid-March of 2004, that number had climbed to more than 11,175. The Border Patrol inexplicably stopped hiring new agents at that point, and the total number dwindled to about 10,800 by the end of the fiscal year.

Although the Intelligence Reform and Terrorism Prevention Act of 2004 authorized 10,000 additional agents over the next five years to reinforce the thin ranks of the Border Patrol, the Administration's Fiscal Year 2006 Budget requests funding for only a small fraction of those resources. While the Administration claims to seek 210 new Border Patrol agent positions, a closer examination of the documents submitted in support of the request reveals that only 105 full-time equivalent positions are actually being sought. Since there are no part-time Border Patrol agent positions, an explanation from the Administration for this discrepancy would be in order. Regardless of whether the actual number is 105 or 210, it is far below the 2,000 authorized under the Intelligence Reform legislation.

Those who advocate ignoring the Act's mandate to double the size of the Border Patrol generally rely on one or both of the following arguments to support their position: 1) Advanced technology will act as "force-multipliers" that will largely eliminate the need for additional Border Patrol agents. 2) The Border Patrol cannot reasonably hire, train and absorb 2,000 additional agents annually.

Neither of these excuses are valid. While suitable technology can undoubtedly be useful in detecting intrusions, it is incapable of arresting a single violator. Cost-effective technologies such as sensors and cameras only provide a "snapshot" of intrusions within a limited geographic area. More sophisticated technology that is capable of tracking people or objects on the move, such as an unmanned aerial vehicle, is very expensive and not nearly as efficient or economical as piloted aircraft and/or mobile agents on the ground.

In 1996, the Illegal Immigration Reform and Immigrant Responsibility Act authorized the doubling of the Border Patrol workforce, calling for 1,000 additional Border Patrol agents and 300 support personnel for each of the following five fiscal years. Although there was a fair degree of doubt that those ambitious hiring goals could be achieved, they were in fact met during the first four years. Those who are now skeptical about the feasibility of adding 10,000 Border Patrol agents over the next five years should bear in mind that this represents a smaller annual percentage increase than the previous build-up, and is likewise attainable.

Incredibly, the Administration is requesting more money to provide illegal aliens with free trips to their hometowns in an effort to keep them from re-crossing through the Arizona desert than it is for hiring more Border Patrol agents to stop such illegal entries in the first place. Despite modest increases in several areas, the Administration is proposing to slash the Border Patrol's overall budget by \$80 million, a 4% reduction. Distressingly, this is the second consecutive year that this vital program has seen a significant reduction in its resources. This is unfathomable, especially in light of the threats to homeland security posed by our porous borders.

Notwithstanding the fact that the connection between border security and homeland security is beyond dispute, there appears to be a decided lack of will to enforce our immigration laws, both at the borders and in the interior of our country. The Border Patrol continues to operate inefficiently, forced to deploy many of its resources in highly-visible positions along the immediate border in an effort to discourage people from crossing illegally. This strategy, which was foolish even before the terrorist attacks of September 11, 2001, is now downright dangerous, allowing terrorists and criminals free access to our country.

Even with the adoption of more sensible enforcement strategies along the border, the flow of illegal immigration will not be significantly reduced until the root of the problem is addressed. The only feasible way to do this is by strengthening the employer sanctions laws. Employers need to be able to easily verify an applicant's eligibility to work in this country, and strict penalties must be imposed against those employers who choose to ignore the law. The Illegal Immigration Enforcement and Social Security Protection Act of 2005 (H.R. 98) would accomplish these goals, and its passage should be one of the highest priorities for this Congress.

Finally, it must be recognized that the Department of Homeland Security cannot accomplish its vital mission without a large number of dedicated and skilled employees. These men and women work long hours under dangerous and difficult conditions, and in return only ask that they be allowed to do their jobs in the manner dictated by their experience, and that they be treated fairly. Unfortunately, neither of

these relatively modest needs are currently being met. Employees are routinely hamstrung in the performance of their duties by policies that make no sense from any perspective. Moreover, the new human resources management system that is being implemented at the Department is a throwback to the corrupt, cronyism-based nineteenth century civil service system that nearly ruined public service in this country. No one wants to work in an agency where their pay suffers in order to reward the favored few, where they can be fired for no valid reason, and where they have no say in the decisions that affect their working conditions. Under these circumstances, the best and the brightest will almost certainly gravitate away from this agency, exposing our Nation to even graver danger. In light of the foregoing, it should come as no surprise that morale among front-line employees is at an all-time low.

In conclusion, the Administration's budget request for immigration enforcement resources shortchanges the American public in one of the most critical areas imaginable – the defense of our homeland against the very real threat of terrorism. The Congress of the United States has the authority – and in this case the solemn responsibility – to override the Administration's request and to fully fund all necessary immigration enforcement initiatives. These would include, but certainly not be limited to, the addition of all 2,000 Border Patrol agent positions authorized under the Intelligence Reform and Terrorism Prevention Act of 2004 and the restoration of \$100 million that has been slashed from the Border Patrol's budget in the Administration's current and previous requests.

1. “More than 500 million people annually cross U.S. borders at legal entry points, about 330 million of them noncitizens. Another 500,000 or more enter illegally without inspection across America’s thousands of miles of land borders or remain in the country past the expiration of their permitted stay. The challenge for national security in an age of terrorism is to prevent the very few people who may pose overwhelming risks from entering or remaining in the United States undetected.

In the decade before September 11, 2001, border security—encompassing travel, entry, and immigration—was not seen as a national security matter. Public figures voiced concern about the “war on drugs,” the right level and kind of immigration, problems along the southwest border, migration crises originating in the Caribbean and elsewhere, or the growing criminal traffic in humans. The immigration system as a whole was widely viewed as increasingly dysfunctional and badly in need of reform. In national security circles, however, only smuggling of weapons of mass destruction carried weight, not the entry of terrorists who might use such weapons or the presence of associated foreign-born terrorists.

For terrorists, travel documents are as important as weapons. Terrorists must travel clandestinely to meet, train, plan, case targets, and gain access to attack. To them, international travel presents great danger, because they must surface to pass through regulated channels, present themselves to border security officials, or attempt to circumvent inspection points. In their travels, terrorists use evasive methods, such as altered and counterfeit passports and visas, specific travel methods and routes, liaisons with corrupt government officials, human smuggling networks, supportive travel agencies, and immigration and identity fraud. These can sometimes be detected.

Before 9/11, no agency of the U.S. government systematically analyzed terrorists’ travel strategies. Had they done so, they could have discovered the ways in which the terrorist predecessors to al Qaeda had been systematically but detectably exploiting weaknesses in our border security since the early 1990s.

We found that as many as 15 of the 19 hijackers were potentially vulnerable to interception by border authorities. Analyzing their characteristic travel documents and travel patterns could have allowed authorities to intercept 4 to 15 hijackers and more effective use of information available in U.S. government databases could have identified up to 3 hijackers.

Looking back, we can also see that the routine operations of our immigration laws—that is, aspects of those laws not specifically aimed at protecting against terrorism—inevitably shaped al Qaeda’s planning and opportunities. Because they were deemed not to be bona fide tourists or students as they claimed, five conspirators that we know of tried to get visas and failed, and one was denied entry by an inspector. We also found that had the immigration system set a higher bar for determining whether individuals are who or what they claim to be—and ensuring routine consequences for violations—it could potentially have excluded, removed, or come into further contact with several hijackers who did not appear to meet the terms for admitting short-term visitors.

Our investigation showed that two systemic weaknesses came together in our border system’s inability to contribute to an effective defense against the 9/11 attacks: a lack of well-developed counterterrorism measures as a part of border security and an immigration system not able to deliver on its basic commitments, much less support counterterrorism. These weaknesses have been reduced but are far from being overcome.” (9/11 Commission Report, pages 383-384)

“It is elemental to border security to know who is coming into the country. Today more than 9 million people are in the United States outside the legal immigration system. We must also be able to monitor and respond to entrances between our ports of entry, working with Canada and Mexico as much as possible.” (9/11 Commission Report, page 390)